

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION  
No. 7:18-CR-63-2BO

UNITED STATES OF AMERICA )  
                                )  
                                )  
v.                            )  
                                )  
CRYSTAL MONTGOMERY,     )  
Defendant.                  )

O R D E R

This matter is before the Court on the government's appeal [DE 40] of Magistrate Judge Robert B. Jones, Jr.'s order setting conditions of pretrial release for defendant. [DE 35]. For the following reasons, the Court finds that defendant shall be detained pending trial.

Defendant Crystal Montgomery is charged with conspiracy to distribute and possession with intent to distribute a quantity of heroin in violation of 21 U.S.C. § 841(a)(1). She appeared before Magistrate Judge Jones for hearing on April 19, 2018. At that hearing, the government moved for detention, which the Court denied, issuing an order setting conditions of release. The government noticed an oral appeal, and defendant's release was stayed pending the resolution of the question by the district court. A hearing was held before the undersigned on May 1, 2018. At the hearing, defendant offered her mother as a potential third-party custodian.

When a federal magistrate judge denies a motion for pretrial detention, setting conditions for pretrial release, the government can file a motion for revocation with the district court. 18 U.S.C. § 3145(a). The district court then conducts a de novo review of the evidence, making an independent decision as to whether the defendant should be released. *United States v. Clark*, 865 F.2d 1433, 1437 (4th Cir. 1989). This can include holding a hearing. *United States v. Williams*, 753 F.2d 329, 333 (4th Cir. 1985).

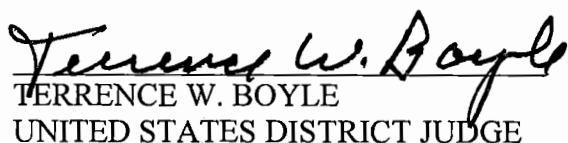
Defendant is charged with violating 21 U.S.C. § 841(a)(1), and so there is a rebuttable presumption of detention in this case in accordance with 18 U.S.C. § 3142(e)(3)(A). It is presumed that there is no condition or combination of conditions that could establish defendant not to be a flight risk or a danger to her community.

The Court finds there is no set of conditions that can serve to rebut the presumption in this case. The conduct defendant is charged with is incredibly serious, and the scale of the operation in which she participated was significant. Defendant is alleged to have traveled between North Carolina and New Jersey to supply heroin, as well as deal out of her residence. She is also alleged to have continued the conspiracy after the arrest of her co-conspirator. This level of involvement supports the presumption that she is a danger to her community.

The fact that most of the other participants in the organization have also been arrested and so the operation appears to be shut down does not alone make defendant an appropriate candidate for release. While her mother is willing to serve as custodian, she is currently caring for several other family members. Additionally, her mother previously lived with another family member who was involved in drug trafficking, but was unaware of it at the time. These factors contribute to the Court's decision in this case.

For the above reasons, the government's motion for review of the order setting condition of release is GRANTED. Defendant shall be continued in detention pending trial.

SO ORDERED, this 3 day of May, 2018.

  
TERRENCE W. BOYLE  
UNITED STATES DISTRICT JUDGE